Robert Wubbena

My comments are included in the attached file entitled "Deschutes Estuary--Pre Design SEIS Comments. This is my response to the Ecology presented Supplemental Environmental Impact Statement (SEIS) with my comment date of November 9, 2026. By Robert Wubbena, PE

DESCHUTES ESTUARY –PRE DESIGN SEIS COMMENTS

Response to the Supplementary Environmental Impact Statement (SEIS)

Robert L Wubbena, PE

November 7, 2026

1) Ecology's SEIS instructions state that this SEIS focusses on Estuary Design updates since the original 2022 FEIS is noted. The new Ecology design updates are linked to several different impacts that the original design attempted to address, included subsequent errors and missing data in prior analysis, and acknowledgment of directly related other Olympia area projects that will impact the Estuary's final design or conversely, the Estuary design will or may have a negative impact on the management of the Deschutes River Estuary/Budd Bay Inlet element of the Ecology Estuary design by others. To focus on the above, my comments are based on the following:
   a) ORIGINAL DEIS/FEIS findings that are ALTERED BY 2026 Design Changes. This includes the associated Ecology regulatory policy/program changes that create a differing impact analysis on the project area i.e. Ecology's Port Agreed Order; Ecology's 2025 change in approach to managing Nitrate control in Budd Inlet receiving waters potentially impacting the LOTT NPDES; City flood/tidal level impacts south of 5th avenue; sediment management now existing, during the three year in Lake construction period and future frequency of required maintenance clean up in response to unscheduled Deschutes River flood events.
   b) OLYMPIA WATERFRONT PROJECTS THAT OVERLAP WITH ESTUARY IMPACTS need to be presented, scheduled, and the impacts by Ecology's new design assessed and assigned to the responsible parties/project leads. Ecology's deferral to the ILA as a "legally binding agreement" does not eliminate the need for the new design to provide the "design analysis" of the State's obligation to the removal of accumulated sediment in the West Bay of Budd inlet caused by the States project. The failure by the State to provide dredging maintenance of the Lake since the 1980's and to identify the construction impacts to Budd Inlet is in error in the SEIS. The impact caused by the new design of reshaping 700,000 cuyd over multiple years within the Lake basin, or in designing the routine dredge maintenance and sediment disposal after the dam is removed is not properly

analyzed and reported on. The new design changes the findings in the original FEIS

c) THE SEIS BY ECOLOGY ACKNOWLEDGES THAT THERE ARE SOME AREAS OF "CONTROVERSARY/UNCERTAINTY". At a minimum, Ecology should present the competing views of controversies and what the potential impacts of each will be on the final EIS and Ecology design proposal. At the extreme, the ILA will be found to be "voided", leaving the long-term sediment management program without a resolution and placing that long term responsibility onto the State/Ecology/DES/DNR as the proponents of the Dam removal. The ILA also provides that the Ecology/Port Agreed Order for the marine water clean up is a prerequisite to the removal of the 5th Avenue Dam. There are no current design plans and funding agreements for these portions of the Ecology SEIS design between now and 2050.

FOLLOWING ARE MY SPECIFIC COMMENTS GROUPED TO COMPARE THE STATE'S ORIGINAL DESIGN—FEIS AND THE NEW/CURRENT ECOLOGY DESIGN –2026 SEIS REVIEW

---

1) WHO IS IN CHARGE OF THE FINAL DESIGN AND FINANCING DECISIONS. Ecology refers to their authority: "The 2026 Estuary Design is in response to the instructions from the Governors Office and State Legislature Objectives (instructions)." Presumably this includes the 2025 Legislative Budget Message: "the previous design (2022) was unaffordable and that Ecology is to redesign the project objectives to consider a less costly alternative." The Legislatures budget message also specified that Ecology is to provide an interim report by September 1, 2026 (Just because the Governor chose to veto this portion of the final Budget/message, Ecology should respect the legislator decision makers and produce the requested September 1, 2026 "Report to the Legilature for their consideration in future Budget requests"). Several key questions. a) Did Ecology consider the newly presented alternative design with a focus on a Percival Creek Estuary while retaining the Capital Lake/5th Avenue dam? (see comments by Dr Dave Milne on the proposal); 2) It is unclear who/which responsible governmental agency is financially responsible on confirming the final design decisions and the basis of a "cost benefit analysis—environmentally, capital cost financing, and long-term community maintenance costs of the final design". Is it Ecology, the State, or some other elected government agency. Who is responsible for making design related tradeoffs, budget overruns,

and the contract guarantees linking the Estuary and Port/Ecology Agreed Order decision that are a pre requisite to the removal of the dam?

2) CITY SEAWATER RISE/DESCHUTES FLOOD MANAGEMENT/LINKAGE WITH CITY/PORT/WATERFRONT WATER LEVEL MANAGEMENT. The State's FEIS in 2022 projected that their design linked to seawater/river floodwater management was improved over the existing State/City Lake provided flood control strategy. The new design evidently found that to not be true and now Ecology is proposing to replace the existing State/City flood control strategy provided by the Lake and the dam, with the replacement of this existing strategy by constructing a new east shore flood control 4 to 5 foot high berm along the east side of the Lake's North Basin, a portable dam near the railroad bridge to make this design work, and another 4 to 5 foot berm to protect the "old brewery structure below the Deschutes waterfalls. Would the high cost of this new Seawater Berm be necessary if the Percival Creek Estuary Alternative was selected and the existing 5th Avenue berm and dam was improved to protect the entire Lake and surrounding properties from the projected seawater rise challenges of the future. A clear summary of the long-term cost and benefit of this new City/State flood management program is needed before it is finalized. Ths is part of the missing benefit cost analysis that no one appears to be completing and sharing with the ILA and State funding agencies
3) SEDIMENT CONTROL AND ECOLOGY OVERSITE MANAGEMENT DURING STATE PROJECT DESIGN, CONSTRUCTION AND IN THE FUTURE. The State's original FEIS compared three alternatives. The Managed Lake Alternative; the Hybrid Alternative and the State's Deschutes Estuary Design (the 2022 design/modified in 2026) Evidently the State did not evaluate the new lower cost Percival Creek Estuary sediment management benefits. The State's 2022 original design only considered two primary construction related sediment management alternatives---a projected high cost off site sediment disposal with their assigned special disposal costs linked to the NZMS issue. This State's analysis (evidently in their mind) voided further consideration of the Managed Lake Alternative. The State then later changed their analysis and concluded that they could dispose of the NZMS contaminated sediment by retaining most of the sediment constrained in "structured sediment islands in the Lake basin with no clear design for the disposal of the excess sediment. They did not address the sediments they allowed to be discharged into the boating channels of West Bay of Budd inlet. The 2026 Ecology Design shifted the sediment disposal strategy for 700,000 cubic yards to a structured shorelines/onsite dewatering process over a 2-to-3-year period versus the sediment islands and undefined offshore disposal. There are several impacts from this new design. The Ecology map descriptions of these newly structured shorelines show blockage of

the only natural salmon spawning stream that is provided by the Percival Creek. This appears to be where they will dispose of the NZMS contaminated soil over a two-to-three-year period. The projected "sediment reshaping period" will be unprotected during the probable annual Deschutes flood season with carryover into West Budd Bay. The West Budd Inlet historical and construction carryover maintenance plan and the long-term projected flood/sediment maintenance plan need to be defined, and Ecology as the responsible party/agencies needs to be confirmed. The ILA does not provide this assurance, nor does it provide a design and SEIS analysis.

4) WATER QUALITY MONITORING, IN SITU REALITY VS COMPLEX MODELS, AND FUTURE IMPACTS ON THE SALISH SEA FROM THE ECOLOGY/STATE DESIGN FOR THE TERMINAL URBAN ESTUARY. ECOLOGY IS THE DESIGNER, THE REGULATOR, AND THE STATE/ECOLOGY RESPONSIBLE PARTY THAT WILL GUIDE the CAPITAL FINANCING BASED ON THEIR TMDL FOR BUDD INLET AND THEIR SALISH SEAS NEW NITRATE MANAGEMENT STRATEGY. There is confusion/difference of opinion on how to interpret the TMDL models used and what the reality is. The community previously requested the State to undertake a simple field monitoring program to confirm actual water quality on a annual and monthly basis to confirm field conditions. Given the very high cost of the design and ultimate State proposed program, a scheduled field sampling program using a simple field program will help resolve this competing view/set of facts so key to the publicly stated water quality issues and concerns. The field data will also confirm that removing the dam does not alter the amount of nitrate nutrients that are released from the Deschutes watershed into Budd Inlet if the dam is removed. This monitoring should start now (January 2027) and continue for the next two years to help resolve this critical issue. The sampling program we are recommending will confirm the probable sources of contamination (and responsible parties), the seasonal contributions, and the impact the various State designs might have on the long-term Salish Seas water quality (specifically nitrate nutrients & dissolved oxygen) and treatment objectives. The in water/shoreline sampling stations should include at a minimum : a) HENDERSON AVE BRIDGE over the Deschutes to confirm the upper watershed contributions from farm land, road runoff, forestry practices, failing septic tanks and other rural contributions: b) E STREET BRIDGE over the Deschutes This Station will include the upstream Henderson St parameters and add the beginning urbanizing contaminants plus the contribution from the previously planned (if still a viable project) Fish Hatchery with its primary treated effluent near the Tumwater golf course. c) NEAR OLD BREWEERY BELOW WATERFALLS. This site will be a composite of the prior sites, plus add the very real value of injecting dissolved oxygen via the

waterfalls. The supersaturation of the dissolved oxygen is one of the unique benefits the existing Deschutes River/waterfalls adds to the potential value of using Capital Lake as a natural nitrate removal program that would benefit the river, the community and the Salish sea; d) THE RAILROAD BRIDGE NEAR THE STEAM PLAN. This site will document the continued Dissolved Oxygen level in the Lake and the other natural changes occurring as the Deschutes River continues is slow flow through the Lake (impounded river/not a true lake) BELOW THE 5TH AVE DAM. This site provides confirming changes to water quality on a seasonal basis per the discussions in the 2026 Percival Creek Estuary and Capital Lake documentation of the actual water quality conditions that the Ecology Designers are attempting to modify.

The parameter measured at each of these five Water Quality Monitoring Stations on at a minimum of a monthly basis for two years should include dissolved oxygen, e-coli, nitrates, TDS, phosphorus, and temperature. Other parameters consistent with the TMDL program should be included. The dissolved oxygen and levels of nitrates measured at these locations will help resolve the differing opinions on what benefits the removal of the Lake/Dam will provide and if the retention of the Lake/proposed nitrate removal program exceeds the values presumed by the FEIS in 2022.

5) WATERFRONT PROJECTS—PRIORITIES AND COORDINATION---WHO IS IN CHARGE? There are three governmental agencies that have a shared assignment to design, manage and finance the currently scheduled Olympia Waterfront projects. The Federal, State, and local Government permitting process should require a shared presentation of all three scheduled projects. Other agencies are involved in various roles and obligations to help finance the final designs, to direct capital construction and then oversee the long-term implementation of three key projects----1)The Deschutes Estuary Project (this SEIS) ; 2) the Port/Ecology Agreed Order Budd Bay Reclamation Project(currently under design with implementation via the ILA as a pre requisite to the removal of the 5th ave dam) ; and 3) the City/Port/LOTT Seawater Rise Response Plan that is under adaptive design and being guided by the rising tidal water (the Ecology has partially incorporated this project with the new flood control berm). The Department of Ecology (the State designated party responsible for the design and construction of the Deschutes Estuary Project). All three projects and responsible parties are linked by site and condition common to all. The Ecology SEIS does not reflect this reality in its proposed design and construction schedule. Without a shared schedule and defined implementation analysis, the Ecology SEIS is incomplete and may need significant modifications.

6) ECOLOGY'S CONFLICTING REGULATORY INTERESTS VS BENEFIT COSTS OBJECTIVES OF THE OLYMPIA COMMUNITY. 1)The Deschutes Watershed "produces" large load of nitrates that are discharged into West Budd Inlet on a continuous basis. In December 2025 Ecology reported that their Puget Sound program had "failed in its attempt to reduce the level of nitrated nutrients in Puget Sound/Salish Sea". Consequently they have changed the previously used "General Permit" for most of the 58 wastewater treatment plans to specify the levels of nitrate that the waste treatment plants will be required to remove in the future------ at the same time Ecology's Deschutes Estuary design is proposing to "eliminate and existing low cost/highly productive/natural system that will be hugely beneficial to the Salish Sea"--- the Capitol Lake with simple modifications and operations similar to the existing system used by LOTT to provide advance waste treatment using an annual plant harvesting system alongside of the Percival Creek Estuary alternative." The potential net benefits to the community---a much lower cost of an alternative new estuary and use of Capitol Lakes existing natural systems to remove huge amounts of nitrates before they discharge into West Budd Bay. 2) The 2026 Ecology Estuary Design is also ---all or nothing---no phasing of the project to accommodate a phased construction/financing program and field verifying some challenging sediment management programs. 3) Ecology Design does not factor in the Ecology/Port Agreed Order that is a prerequisite to the dam removal or present a cost benefit comparison of how the City/Port/LOTT Seawater Rise adaptive design will be impacted by Ecology's current design. Too many variable without critical data that will enable the "Responsible Party for permits, design, financing and implementation is still unknown" The current "Responsible Party is Ecology/the Governor and the Legislature." The ILA terms and conditions have not yet been confirmed and may be void and requires answers to many of the previous questions.